



PAYCHECK PROTECTION PROGRAM LOAN FORGIVENESS GUIDELINES

Loan forgiveness is a defining feature of the Paycheck Protection Program (the “PPP”) created through the CARES Act. However, in order to maximize forgiveness, borrowers need to use the proceeds in a certain manner and within certain time constraints. The main requirements are outlined below, along with answers to some anticipated questions.

Please note that this list of requirements is not all inclusive --- other limitations may apply to your specific business situation. Some of these limitations are described in the FAQs below. Ingram professionals are available to assist in maximizing your PPP loan benefits.

USE OF PROCEEDS

The loan proceeds must be used for the following costs and expenses within the eight-week period after disbursement of the loan:

- Payroll costs;
- Interest payments on debt obligations incurred before February 15, 2020 (for mortgage obligations only interest can be forgiven);
- Rent payments on leases dated before February 15, 2020; and
- Utility payments under service agreements dated before February 15, 2020.

At least 75% of the loan proceeds must be used for payroll costs.

Payroll costs include:

- Salaries, wages, commissions, or similar compensation;
- Cash tips or equivalent;
- Payment for vacation, parental, family, medical or sick leave;
- Payment for employee benefits (including health insurance premiums paid for the employee);
- Employer contributions to retirement plans; and
- State and local taxes assessed on compensation.

The cash component of payroll costs is limited to \$100,000 per employee.

FAQs

Q: To maximize forgiveness, is there a timeframe during which I must use the loan proceeds?

A: Yes. The forgiveness is available for amounts incurred and payments made from the date you receive the loan proceeds until eight weeks after that. The phrase in the CARES Act language, “costs incurred, and payments made” seems to suggest that forgiveness is available for payments

made and costs incurred during the eight-week period, even if payment is made after the eight-week period. However, there needs to be more guidance from the SBA on whether the loan proceeds in fact must be paid within the eight-week period.

Q: How do I document and track my loan forgiveness?

A: You will need to clearly document all eligible payroll and non-payroll expenses, as you will need to submit documentation to your lender detailing the use of the proceeds, including your number of full-time equivalent employees, pay rates, payment of debt obligations and utility payments. It is advisable — but not required — to have the PPP loan proceeds put into a separate bank account to better track the use of the proceeds and avoid co-mingling of funds. Failure to do so could lead to confusion and calls to provide additional financial information.

Q: How do I apply for loan forgiveness?

A: You can apply to your bank after the eight-week period following receipt of the loan proceeds. The bank then has 60 days to make a determination on forgiveness.

Q: Can my loan forgiveness be affected if I have terminated or furloughed employees, or reduced salaries?

A: Yes. Loan forgiveness will be reduced (i) in proportion to a reduction in the number of full-time equivalent employees of the borrower and (ii) as described below, under “How do I calculate salary reductions,” on a dollar-for-dollar basis for any reduction, during the eight-week period, in excess of 25% of the total salary or wages paid to employees during the most recent full quarter during which the individual was employed. For purposes of (ii), employees who received wages or salary for any pay period in 2019 of more than \$100,000 annualized are excluded.

Q: How do I calculate the reduction in full-time equivalent employees?

A: To determine the possible reduction, you would measure the number of full-time equivalents (FTEs) during the eight-week period and compare it to the FTEs you had in either of two baseline periods: 2/15/19 to 6/30/19, or 1/1/20 to 2/29/20, whichever has fewer FTEs. For this purpose, FTEs are the average number of employees you have over the given period who work at least 40 hours per week; not to exceed 40 hours per week per employee.

Q: Can I still get loan forgiveness if I bring back employees that were terminated or furloughed?

A: Yes. The FTE reduction will not apply if, by June 30, 2020, you bring the FTE level back up by at least the number of FTEs that were reduced between February 15, 2020 and April 27, 2020. However, SBA needs to issue additional, more-definitive guidance on these calculations.

Q: How do I calculate salary reductions to determine whether I am over the 25% threshold?

A: To calculate the reduction, identify all the individuals during the eight-week period that were employed at any time during 2019 and did not receive an annualized rate of more than \$100,000

during 2019. If, during any week of the eight-week period, such employee makes less than 75% of the average weekly wages paid during the most recent full quarter of 2020, there is a dollar-for-dollar reduction.

Q: Can I still get loan forgiveness if I restore salaries that have been reduced?

A: Yes, if by June 30, 2020, you restore the salary/wage levels of those employees who earn less than \$100,000 annually to at least the level existing for that employee on February 15, 2020. In that case, any salary/wage level reductions that occurred between February 15, 2020 and April 26, 2020 will be excused. However, there needs to be additional, more-definitive guidance from the SBA on these calculations.

Q: What if I used the loan proceeds for the covered costs and expenses — including payroll, benefits, and rent — but a portion is not deemed forgivable?

A: The portion that is not deemed forgivable will continue as a loan, with an interest rate of 1% and a maturity of two years. Payments are deferred for six months following the disbursement of the loan. But interest will accrue on the loan beginning with disbursement.

Q: What if I do not use the loan proceeds for covered costs and expenses (i.e. authorized purposes)?

A: The SBA provided some guidance on this in its interim final rule released on April 3, 2020. If the proceeds are used for “unauthorized purposes,” the SBA will direct you to repay those amounts. Further, if you knowingly use the funds for unauthorized purposes, you will be subject to criminal liability for fraud and other charges. In addition, if your “shareholders, members, or partners use PPP funds for unauthorized purposes, SBA will have recourse against the shareholder, member, or partner for the unauthorized use.” So far, there is no further guidance on the extent of recourse against shareholders, members, or partners for unauthorized use of PPP loans.